

INSTRUCTIONS FOR FILING A CHAPTER 11 CASE

1. Scope: These instructions apply to all Chapter 11 cases filed in this district. They are designed to supplement the Fed. R. Bankr. P. and the Local Rules of this court and to answer questions commonly asked in Chapter 11 cases. If you are unfamiliar with the Local Rules, consult other sections of this website. There are a number of Local Rules especially designed to facilitate the expedient processing of Chapter 11 cases. In particular, you are directed to the following Local Rules that may be of significance in the early stages of the case: Rule 2002-1(b) (Entities to be Served in Chapter 11 Cases); Rule 2002-4(c) (Notices Prepared by Debtor in Possession); Rule 2014-1 (Employment of Professionals); Rule 2016-1 (Compensation of Professionals); Rule 4001-2 (Cash Collateral); Rule 6004-1 (Sale of Estate Property); Rule 9010-3 (Attorneys); Rules 9013-2 and 9013-3 (Motion Papers and Service); and Rule 9013-4 (Applications). These instructions do not alter the requirements of Fed. R. Bankr. P. or the Local Rules, which remain applicable in all Chapter 11 cases.

2. United States Trustee: Before filing your case, or as soon thereafter as possible, you are encouraged to contact the United States Trustee's Office to discuss your intentions with respect to applications to retain professionals, first day orders and other matters needing immediate attention in the case. The United States Trustee's Office in this district is prepared to discuss these matters with interested parties on an expedited basis, if necessary. The United States Trustee prefers to be given as much advance notice as possible and will be asked by the Court to take a position on all such motions at any hearing.

3. Notice of Intention to Seek Relief on an Expedited Basis: If you intend to make motions for first day orders, at the time you file the Chapter 11 petition file a Notice of Intention to Seek Expedited Hearing (the "notice") substantially in the form attached to these instructions. The purpose of the notice is to give everyone interested in the case as much advance warning as possible of the Debtor's intentions with respect to seeking expedited relief in the first days of the case. The filing of this Notice is not a substitute for a motion and service and notice required by the Fed. R. Bankr. P. and Local Rules.

4. Date for Hearing on First Day Orders: Contact the calendar clerk for the judge to whom the case has been assigned. The calendar clerks have been instructed to make time available for hearing of motions covered by the notice within two working days of the date the petition is filed. If the assigned judge is not available, another judge will hear these motions if you so request. After obtaining the time and date for the hearing on first day orders, serve all motions on all parties entitled to service under the Local Rules. No first day motions will be heard on less than 36 hours notice except in the case of a true emergency, for example, cash management and payroll related motions when certain outstanding prepetition checks must clear to maintain stability of the Debtor's business.

5. Regular Hearing Date: The calendar clerks for the judges have also been instructed to honor any request by counsel for the Debtor to set aside a day and time each month (or other periodic interval selected by Debtor's counsel) to hear all motions in the case ("the regular hearing date"). Counsel for the Debtor is required to notify all interested parties of the regular hearing date. The regular hearing date will

also be posted on the website. If a motion must be heard on a date other than the regular hearing date, the motion papers must provide good explanation why the motion cannot wait to be heard.

6. Agenda for Regular Hearing Date: In any case where there will be more than five motions or applications noticed for the same regular hearing date, counsel for the Debtor shall prepare an agenda and file and serve it no later than 5 days before the hearing. The agenda shall include a list of the motions to be heard and list those which are expected to go by default. As to those motions which are not expected to go by default, the agenda will state the identity of the moving party, the relief sought and the then-known status of the motion (i.e., contested and need a hearing immediately, contested but needs an evidentiary hearing at a later date, parties still negotiating, etc.). The purpose of this agenda is to give all the parties involved some idea of what is likely to occur at the hearing and how they are to prepare. Counsel for the Debtor shall update, serve and file the agenda 24 hours before the hearing and update and file it again two hours before the hearing if there have been material changes in the status of the pending motions. At the hearing, Debtor's counsel shall make available to counsel copies of the last updated agenda. Counsel who are unsure of whether they will be expected to be ready to participate in an evidentiary hearing may call the judge's law clerk.

7. Appearance by Telephone: Out of town counsel and parties may appear by telephone unless they expect to be involved in the taking of evidence. You should call the judge's calendar clerk to schedule a telephonic appearance. In rare cases, if the judge believes it necessary for the proper conduct of a hearing, permission to appear telephonically will not be granted.

8. Professionals:

(a) Retention: The Local Rules provide an expedient method of obtaining an order authorizing the retention of professionals. Objections to the retention of particular professionals may be considered along with first day orders, so long as you have followed the Local Rules for making an application. In such a case, the United States Trustee will attempt to provide the court with a recommendation, even if there are less than five days between the filing of the application and the hearing date.

(b) Intervals for Hearing Fee Applications: You may include in an application for retention a request that fee applications will be heard at 60 or 90-day intervals on the regular hearing date. If the request is granted, counsel for the Debtor shall obtain an early date, approximately 60 or 90 days from the commencement of the case, for the first such hearing and shall notify all professionals retained in the case of the regular hearing date for professionals fees. Professional fee applications will all be scheduled for hearing at the same time. At the commencement of the hearing, counsel for the Debtor shall provide the court with a schedule of approved professional fees to date along with counsel's anticipated date for the submission of a plan of reorganization and an estimate of the professional fees expected to be incurred to the end of the case.

(c) Paydown Before Approval: All professionals who seek to take advantage of this procedure must include a request for such treatment in their retention application and provide evidence in their application of their agreement and ability to disgorge if the court so orders, as well as evidence that the Debtor has agreed to such a procedure. If allowed, by order of the court all professionals whose retention has been approved may be allowed to submit regular monthly bills to the Debtor and the Debtor may be authorized to pay up to 80% of such fees and 100% of costs, pending court approval of the fees. The court will consider requests for early paydown at the time the retention is approved. Copies of all monthly bills shall be simultaneously sent to the Office of the United States Trustee. The court may sua sponte or upon motion by any interested party revoke the right to this paydown procedure should circumstances in the case so warrant.

9. Cash Collateral and Financing Orders: The moving papers shall make clear whether and where any of the following are contained in any agreement or proposed order: any provision that 1) provides for cross-collateralizing prepetition debt with postpetition collateral; 2) admits the validity, perfection or amount of the prepetition debt or waives the right of any party to challenge; 3) waives the right to surcharge collateral; 4) grants anyone a lien on or the right to pursue the Debtor's avoidance actions; 5) pay prepetition debt with postpetition loans or otherwise attempts to roll prepetition debt into a postpetition obligation; 6) fails to provide a carve out for professionals; 7) carves out only for professionals on a disparate basis; 8) primes another debt; or 9) grants relief from stay upon default without notice and a court order. The motion shall also explain why any such provisions are necessary in the context of this financing arrangement. Proposed Orders should not contain factual findings if they are not necessary and you should not ask for findings without expecting to make a record to support them. Avoid unnecessary, burdensome or overreaching provisions.

10. Early Sales of Substantially All Assets: Moving papers to establish sale procedures for the sale of, or to sell, substantially all of the Debtor's assets that are filed prior to the appointment of an unsecured creditors committee (including cases in which the U.S. Trustee is unable to appoint a committee) shall: 1) explain the reasons that the sale should occur prior to confirmation of a plan; 2) describe the marketing activities that have been or will be undertaken with respect to the assets; 3) describe any existing or proposed relationships between the proposed buyer and the Debtor, insiders of the Debtor, creditors or other parties in interest; 4) describe the bidding procedures; 5) identify expense reimbursements, break-up or topping fees, or other consideration that will be payable to the proposed buyer if that buyer is unsuccessful; 6) identify commissions that will be payable to brokers, investment bankers or similar professionals as a result of the sale; 7) describe the material terms of the sale, and include as an exhibit the proposed purchase agreement, if available; and 8) identify financing, due diligence or other material contingencies to closing. Do not ask for findings in the proposed Order without expecting to make a record to support them.

11. Pre-Packaged Plans:

(a) Expedited Scheduling Hearing: If requested by the Debtor, the Court may hold an

expedited hearing and scheduling conference on not less than three days notice to establish a schedule for the case including: 1) form and manner of notice of the filing of the case; 2) shortening notice of § 341 hearing; 3) fixing the time for the filing of proofs of claim under Fed. R. Bankr. P. 3003(c)(3); 4) setting a date for hearing on acceptance of a plan under 11 U.S.C. § 1126(b); and 5) setting a date for confirmation of the plan and such other matters as may be necessary to permit the case to proceed expeditiously.

(b) Motion Requirements: In connection with any motion to determine the validity of prepetition solicitation of acceptances of a plan under 11 U.S.C. § 1126(b) and Fed. R. Bankr. P. 3018(b), the moving party shall provide the following information:

1. The identity of each professional engaged by the Debtor or any other party or committee involved in the negotiation of the plan and the solicitation of acceptances;
2. A copy of the documents containing all disclosures made in connection with the solicitation;
3. A copy of the form of document(s) used by creditors and equity security holders to communicate acceptance or rejection of the plan; and
4. A ballot report in the form required by Local Rule 3020-2.

In re: §
§ Case No. _____
§ Chapter 11 Case
Debtor. §

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| G | JOINT MOTION FOR ORDER DIRECTING JOINT ADMINISTRATION OF RELATED BANKRUPTCY CASES |
| G | MOTION FOR ORDER EXTENDING TIME TO FILE SCHEDULES, STATEMENT OF FINANCIAL AFFAIRS AND CERTAIN LISTS REQUIRED BY BANKRUPTCY RULE 1007(c) |
| G | MOTION RE MAINTENANCE OF BANK ACCOUNTS AND EXISTING CASH MANAGEMENT SYSTEMS |
| G | MOTION TO PAY PRE-PETITION WAGES, SALARIES, AND RELATED BENEFITS |
| G | MOTION FOR ORDER AUTHORIZING USE OF CASH COLLATERAL |
| G | MOTION FOR APPROVAL OF POST-PETITION SECURED AND SUPER PRIORITY FINANCING PURSUANT TO SECTION 364(c) OF THE BANKRUPTCY CODE |
| G | MOTION, PURSUANT TO SECTION 366 OF THE BANKRUPTCY CODE, FOR ENTRY OF INTERIM ORDER (1) DETERMINING ADEQUATE ASSURANCE OF PAYMENT FOR FUTURE UTILITY SERVICES AND (2) RESTRAINING UTILITY COMPANIES FROM DISCONTINUING, ALTERING, OR REFUSING SERVICE |
| G | MOTION FOR ORDER FOR ESTABLISHING NOTICE AND ADMINISTRATIVE PROCEDURES |
| G | MOTION FOR ORDER AUTHORIZING THE RETENTION OF PROFESSIONALS |

- G MOTION FOR ORDER AUTHORIZING THE FILING OF DOCUMENTS UNDER SEAL
- G MOTION FOR ORDER AUTHORIZING PAYMENT OF CERTAIN PREPETITION CUSTOMER CLAIMS IN THE ORDINARY COURSE OF BUSINESS (E.G., GIFT CERTIFICATES; LAYAWAY CLAIMS; WARRANTY CLAIMS; REFUND POLICIES)
- G MOTION FOR ORDER AUTHORIZING PAYMENT OF SALES AND USE TAXES
- G MOTION FOR ORDER AUTHORIZING DEBTORS TO RETURN GOODS PURSUANT TO SECTION 546 (g) OF THE BANKRUPTCY CODE
- G MOTION FOR ORDER AUTHORIZING POSTPETITION DELIVERY OF GOODS ORDERED BY CUSTOMERS PREPETITION
- G MOTION FOR ORDER AUTHORIZING PAYMENT OF CUSTOMS DUTIES
- G MOTION FOR ORDER AUTHORIZING PAYMENT OF CONTRACTORS IN SATISFACTION OF LIENS
- G MOTION FOR ORDER AUTHORIZING DEBTORS TO HONOR CERTAIN PREPETITION CLAIMS OF SHIPPERS, FREIGHT HANDLERS AND WAREHOUSERS
- G MOTION FOR ORDER PERMITTING DEBTORS TO HONOR WORKERS' COMPENSATION PROGRAMS AND PAY INSURANCE OBLIGATIONS
- G MOTION FOR ORDER APPROVING THE ESTABLISHMENT OF RECLAMATION PROCEDURES
- G MOTION FOR ORDER REJECTING LEASES
- G OTHERS (list):

Dated: _____

Counsel for Debtor